



An
Bord
Pleanála

Inspector's Report

ABP-322107-25

Development	Retention for existing external shelter and play area and to retain use of ground floor as a creche.
Location	Newline Road, Quin, Co. Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	2460666
Applicant(s)	Cuinche Páistí Beaga Ltd
Type of Application	Retention permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant(s)	Cuinche Páistí Beaga Ltd
Observer(s)	Gallagher Family
Date of Site Inspection	13 th June 2025
Inspector	Sarah O'Mahony

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1.0 Site Location and Description

- 1.1. The 0.13ha site is situated at in Quin, Co. Clare, at the east of the village adjacent to Quin National School. It comprises a semi-detached dwelling and a detached purpose built creche. The ground floor of the dwelling is also in use for childcare and the upper floor is stated to be in residential use but unoccupied.
- 1.2. The rear open space comprises a play area for children attending the facility and includes one 33.5m² steeltech type shed which is open on one side, providing a sheltered area situated adjacent the western boundary of the site. There is also a large storage shed situated adjacent the western boundary as well as a number of smaller sheds and glasshouses situated further south within the site.
- 1.3. Boundaries comprise blockwork walls and ornamental hedgerows to the front and blockwork walls to the rear. Vehicular access is provided at the north from Newline Road with car parking provided for 3no. vehicles within the curtilage of the site.
- 1.4. There is a semi-detached dwelling situated directly adjacent the site to the west while land to the east comprises the aforementioned school. The rear boundary abuts an area of public open space associated with a separate housing estate.

2.0 Proposed Development

- 2.1. Retention permission is sought to retain the following development:
 - A 33.5m² single storey steeltech type covered outdoor shelter and play area,
 - Retain change of use of ground floor of dwelling from residential to childcare purposes, and
 - Remove Condition no. 3 of reg. ref. P04/626 which states:
“The existing dwelling house shall cease to be used as a childcare centre upon completion of the new facility. Written confirmation of this shall be submitted upon commencement of use of the proposed development.”

3.0 Planning Authority Decision

3.1. Decision

A notification to refuse retention permission was issued by Clare County Council on 21st February 2025 for the following two reasons:

1. *The site is the subject development is located in an area zoned “Existing Residential” in the Clare County Development Plan 2023-2029, for which the objective is to conserve and enhance the quality and character of the area, and to protect residential amenities. Further, it is a policy of Clare County Development Plan 2023-2029 as set out in Section 10.17.1, which refers to Pre-School/Childcare Facilities, to permit childcare facilities in Existing Residential areas provided that it is balanced with the protection of residential amenities and the retention of the character of the area. It is advised under Section A1.4.3 of the Plan that sessional or afterschool care which is ancillary to the main residential use is more appropriate in the context of semi-detached properties.*

Accordingly, having regard to the significantly increased scale and intensification of the childcare/Montessori centre, and to the limited residential use of the site, it is considered that the development proposed to be retained, and the removal of conditions associated with previous grant of permission P04/626, would seriously injure the amenities of residential property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the number of staff employed and the number of children facilitated on the site, and the significant deficiency in the provision of car parking, it is considered that the traffic volumes and movements associated with the proposed use of the ground floor of the existing dwelling as a childcare / Montessori centre, in conjunction with the existing permitted childcare facility on site, would lead to unacceptable levels of traffic within this residential area, and would give rise to haphazard vehicular stopping and parking practices and turning movements, thereby resulting in obstruction of other road users, would endanger public safety by reason of traffic hazard,*

and would injure the residential amenities of the occupants of nearby housing, by reason of increased levels of traffic, noise and general disturbance. The proposed development would, therefore, be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planners report recommendation to refuse permission is consistent with the notification of decision which issued.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.
- The report noted the planning history on the site including ref. 22/328, ABP ref. PL03.314005 where retention permission was sought for the same development and refused for residential amenity and traffic safety grounds. It outlines how no circumstances have changed since that decision was made to justify an alternative decision and therefore the initial rationale behind the imposition of condition no. 3 of ref. 04/626 still applies, as there are still concerns regarding impacts to surrounding residential amenity.
- The proposed development contravenes the zoning as retaining the first floor of the dwelling for residential purposes means residential uses are no longer the primary land use on the site. Further, as the creche operators/owners do not reside in the dwelling, it cannot be considered a home-based employment and therefore does not comply with the zoning objective for the 'existing residential' lands which provides for '*small-scale home-based employment uses where the primary residential use will be retained*'. Further, as the development would seriously injure residential amenities including noise and traffic matters, the development would again not comply with the zoning objective and therefore the principle of development is not acceptable on the site.
- The report assessed the development in accordance with the Section 28 Childcare Guidelines and considered that it did not comply with general location recommendations due to traffic and car parking matters.

- With regard to transportation matters, the refusal reason relates to the proposed increase in childcare spaces with no associated increase in car parking at the site or assessment of traffic flows etc. It states:

“While the County Development Plan makes provisions for alternative arrangements, the applicants have not satisfactorily demonstrated that such arrangements are in place, or that such arrangements would be successful in remediating the traffic concerns which previously led to a refusal of permission on this site.

Given that a refusal of permission is already recommended due to non-compliance with the zoning objective for the site, I do not consider a request for further information to be a feasible option in relation to traffic issues. A refusal of permission is recommended.”

- With regard to retaining the covered play area, the report states under the heading of ‘Visual Impact’ that it does not have a negative impact on the residential amenities of the area. However later under the heading of ‘Residential Amenities’ it states:

“No justification has been provided for the siting of the structure so close to the boundary of the adjoining house. Numerous other siting options were available which would have reduced the impact on the neighbouring property.

The third-party observation received from the neighbouring landowner includes photographs of this structure as viewed from their property. In tandem with the noise issue outlined above I consider this structure constitutes an unacceptable imposition on the amenities of the neighbouring property.”

3.2.2. Other Technical Reports

- No technical reports received.

3.3. Prescribed Bodies

- No submissions received from prescribed bodies.

3.4. Third Party Observations

3.4.1. 20no. third party submissions supporting the development were received from those listed below which includes parents of children utilising the service, staff and local business representatives.

1. Shannon Chamber of Commerce
2. Eva Barret and David Richardson
3. Denise O'Callaghan
4. Jessica McMahon
5. Pádraig McGrath
6. Minnie Keane
7. Rachel McNamara
8. Vivienne Mulready
9. Siobhán Hammond
10. Aoife Higgins
11. Laura and Ryan Enright
12. Dearbhla Reddan
13. Mick Guinee
14. Mary Duggan
15. Aisling Hawe
16. Christopher Rowlands and Siobhán Spear
17. John Paul O'Brien
18. John and Noreen Kennedy
19. John and Edel Earls
20. David McLoughlin

Supporting Grounds

- Economic requirement and importance of childcare. Provides employment for 10-20 staff and also facilitates parents to return to the workforce.
- Well run facility with no concerns raised. Parking has never been a concern for parents. Staggered drop off and collection times operate smoothly to reduce traffic flows. Any traffic congestion relates to the adjacent school.
- Community service, vital piece of infrastructure for 50,60,70,100 families, only childcare facility for infants with no alternative. Additional spaces are required due to waiting lists.
- Refusing permission would affect many families.
- Existing covered shelter is an invaluable asset providing outdoor play and learning space for children. It provides additional healthcare benefits to reduce transmission of infections. This is supported in government policy through the provision of grants for outdoor play.
- Use of ground floor is not a new development but a continuation of established and vital service. Removing condition no. 3 would allow the creche to continue operating without unnecessary administrative obstacles.
- Planning permission has been granted for 50/52no. dwellings in Quin and sought for another 56no.
- Every childminder in the state operates from their home.
- The Childcare Guidelines provides a range of requirements on Planning Authorities to support childcare facilities.

3.4.2. 1 no. third party submission was received from the party listed below objecting to the development on the following grounds:

1. The Gallagher Family

Objecting grounds

- Acknowledge need for childcare facilities and support for permitted development and associated conditions. The planning process must balance the need for childcare with the rights of residents to a safe and properly planned environment.

- Unauthorised development has continued on the site despite the issuing of warning letters and enforcement notices.
- Unauthorised intensification has omitted the primary residential use on the site, doubled the permitted number of childcare spaces with no additional car parking and increased noise all of which contravenes the zoning objective.
- Unauthorised structures including the existing conservatory on the rear elevation.
- Existing car parking layout does not comply with condition no. 8. Surface water management does not comply with condition no. 10.
- Impact on residential amenity including noise, traffic and privacy. Circular Letter PL3/2016 states that the need for childcare spaces does not override fundamental planning considerations, including proper zoning compliance and residential amenity protection. Applicants admitted residential amenity impacts in previous planning applications and indicated a desire to construct a new dwelling elsewhere.
- The development description does not refer to the existing doubling of childcare places in the standalone facility which contravenes conditions to the parent permission nos. 2 and 3.
- Granting permission would result in a piecemeal and unregulated development setting a damaging precedent.
- Applicant made a submission to have the zoning changed to community use which was rejected.
- Applicants history of non-compliance with parent permission leads to concerns that the first floor of the dwelling will be used for childcare purposes also as the applicants have outlined future plans to expand. Attaching a condition to restrict its use will be difficult to enforce.
- Bright coloured external paint make the structures stand out as a commercial premises and together with the unauthorised structures has altered the character of the site making it visually dominant and commercial in nature leading to devaluation of the adjoining residence as confirmed in a submitted auctioneer's letter. It also does not compliment the village scape of Quin and is at odds with the surrounding area.

- The covered play area shed is commercial in nature and has a negative visual impact on the adjoining property.
- Applicant's planning statement is inaccurate as the creche use pre-2004 was fundamentally different to the development currently in place.
- No Traffic Impact Assessment has been submitted to support the Applicants statement that traffic impacts are negligible and proposing staff car parking in public spaces is a flawed approach due to no guarantee of their availability. Evidence of the existing modal split is not provided and many of the third party submissions are from parents stating to reside outside of Quin and therefore relying on car transport. Photographs are provided of traffic congestion, footpath obstruction and on-street parking.
- Applicant is a limited company which demonstrates commercial use and no private home or home-based business on the site. The first floor is unoccupied and no first-floor layout presented to represent a viable unit including car parking and open space. The Applicant's Planning Statement admits to difficulties providing commercial and residential uses on the site.
- Third party submissions outlining support do not address non-compliance with planning matters, adverse residential impacts or traffic hazards. Supporters do not live in close proximity to the site. The rationale of requiring childcare spaces is an immaterial planning justification to regularising unauthorised development. Alternative premises should be sought if the Applicant wishes to continue operating at the scale proposed as the site is inappropriate for intensification.
- Assertions that the site is affiliated with the adjacent school and comprises 'Quin Learning Campus' are incorrect. The site comprises a commercial use within a residential property.
- Facility does not comply with Planning, Fire Safety or Childcare Regulations. No Fire Safety Certificate has been issued for the ground floor creche use. Further there are concerns outlined regarding overcrowding and implications for insurance coverage.
- The observation outlined a number of similar cases in the area where An Bord Pleanála refused permission due to impacts to residential amenity.

- Concerns and frustrations outlined regarding enforcement action procedures. Claims made that the Applicant is abusing the planning system to avoid complying with the enforcement notice. States that the Applicants have judicially reviewed An Bord Pleanála's previous decision on the same proposed development.

4.0 Planning History

- P04/626: Planning permission granted to construct a childcare/Montessori centre. Condition no. 3 is outlined above.
- P21/156: Retention permission sought to retain the use of the ground floor of the dwelling for childcare /Montessori use, to retain a steel structure for use as a covered play area and retain erection of a steel shed for storage purposes. The application was withdrawn.
- P22/328, ABP ref. PL03.314005: Retention permission sought to retain the use of the ground floor of the dwelling for childcare /Montessori use, to retain a steel structure for use as a covered play area and retain erection of a steel shed for storage purposes. A split decision was issued by the Planning Authority to grant permission for the storage shed and refuse permission for both the covered play area and change of use of the ground floor of the dwelling. This decision was appealed to An Bord Pleanála who upheld the decision. 2no. conditions were attached to the grant which simply related to surface water and retaining the storage shed in accordance with the plans and particulars received with the application. The refusal reasons relating to the covered play area and ground floor use are as follows:

1. *The site of the subject development is located in an area zoned "Existing Residential" in the Clare County Development Plan 2023-29, for which the objective is to conserve and enhance the quality and character of the areas, to protect residential amenities. Furthermore, it is a policy of Clare County Development Plan 2023-29 as set out in Section 10.17.1 which refers to Pre-School/Childcare Facilities to permit childcare facilities in existing residential areas provided that it is balanced with the protection of residential amenities and the retention of the character of the area. It is advised under section A1.4.3 of the Plan that sessional or after-school care which is ancillary to the main residential use is more appropriate in*

the context of semi-detached properties. Accordingly, having regard to the significantly increased scale and intensification of the childcare/Montessori centre over that which was permitted under permission granted under planning register reference number P04/626, and to the limited residential use on site, it is considered that the development proposed to be retained would seriously injure the amenities of residential property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the number of staff employed and the number of children facilitated on the site, and the significant deficiency in the provision of car parking, it is considered that the traffic volumes and movements associated with the proposed use of the ground floor of the existing dwelling as a childcare/Montessori centre in conjunction with the existing permitted childcare facility on site, together with the hours of operation of such a facility, would lead to unacceptable levels of traffic within this residential area, and would give rise to haphazard vehicular stopping and parking practices and turning movements thereby resulting in the obstruction of other road users, would endanger public safety by reason of traffic hazard, and would seriously injure the residential amenity of the occupants of nearby housing by reason of increased levels of traffic, noise, and general disturbance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

- 4.1. There are also references made in a third-party submission to an enforcement case ref. UD20-128 where a warning letter was issued to the applicant in December 2020 and an enforcement notice issued in December 2021 regarding alleged unauthorised development on the site. The Case Planners report does not reference these communications.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is governed by the policies and provisions contained in the Clare County Development Plan 2023-2029, interim version, (referred to hereafter as the CDP).

5.1.2. Objective CDP10.15 states it is an objective to:

“a) To encourage the provision of affordable and accessible childcare and pre-school facilities on well-located sites that are close to the populations they intend to serve throughout County Clare and in line with population and employment growth;

b) To facilitate the development of additional childcare services for vulnerable or disadvantaged groups in the community; and

c) To have regard to Childcare Facilities – Guidelines for Planning Authorities (2001) or any updated version in the assessment of applications for childcare facilities.”

5.1.3. Section 10.17.1 refers to Pre-School/Childcare Facilities and encourages co-location close to residential areas, employment areas and retail centres etc but states that the benefits of such facilities in residential areas must be balanced with the protection of residential amenities and the retention of the residential character of the area. It further states that development proposals for change of use of all or part of a dwelling house in a residential area to a childcare facility will be assessed having regard to the standards set out in Appendix 1 Development Management Guidelines.

5.1.4. A village plan for Quin is set out in Volume 3c of the CDP and it illustrates how the site is zoned ‘Existing Residential’. The zoning objective for such lands is as follows:

“to conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and for uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained.”

5.1.5. An indicative land use matrix is set out in Appendix 2 of the Plan and it provides that creche/childcare facilities are acceptable in principle in existing residential lands while home based economic activities are open for consideration.

5.1.6. The definitions of both classes of acceptability, as defined in the CDP, are set out below:

- *Will normally be acceptable in principle: A proposed use that will be classified as acceptable in principle in the relevant zone subject to compliance with policies and objective as set out in this plan and in accordance with the proper planning and sustainable development of the area.*
- *Open to consideration: A proposed use that will be open to consideration, but subject to particular considerations for example, compatibility with adjoining uses, scale or whether or not the proposal is prejudicial to the amenities of an area or the residential amenities of an adjoining property.*

5.1.7. OS1 refers to lands at Quin Abbey and surrounds and states ‘*The lands immediately adjoining the southern boundary are reserved for road safety improvements in the form of a drop off point for the school.*’

5.1.8. C1 refers to Quin National School and grounds and states ‘*Development works to provide a safe turning area and drop off point will be strongly encouraged. A pedestrian crossing point to the school and associated traffic calming measures shall also be provided as part of any future development/expansion on the site.*’

5.1.9. Appendix 1 of the CDP sets out development management standards and Section A1.4.3 therein refers to Childcare Facilities in Residential Areas as follows:

“In established residential areas detached houses/sites or substantial semi-detached properties with space for off-street car parking and/or suitable drop-off and collection points for customers and also space for an outdoor play area are likely to be more acceptable for the provision of child care facilities. This is especially the case if this involves use of only part of the house and the residential use remains.

The use of terraced properties or semi-detached properties on small plots is less likely to be acceptable for full day care facilities and will be assessed on their merits with regard to the objectives and development management

guidelines outlined in this Plan. Sessional or afterschool care which is ancillary to the main residential use, may be more appropriate in this regard. New housing schemes will be expected to plan for and include provision for childcare facilities. The level of provision will depend on the particular circumstances but as a guide one childcare facility for a minimum of 20 childcare places per approximately 75 dwellings may be appropriate.”

5.2. Childcare Facilities - Guidelines for Planning Authorities (2001)

- 5.2.1. The guidelines provide a framework to guide assessment of applications for planning permission for childcare proposals. Circular PL 3/2016 however was issued in March 2016 by The Department of Environment, Community and Local Government and states the following:

“Planning Authorities are requested to exclude matters relating to childcare facility standards outlined in Appendix 1 of the Childcare Facilities Planning Guidelines 2001 – including the minimum floor area requirements per child – from their consideration of planning applications relating to childcare facilities and to solely focus on planning related considerations that fall within the remit of the Planning and Development Act 2000, as amended, in the determination of such planning applications”

- 5.2.2. Section 3.3 provides guidance for locating childcare facilities in different specific location types. Section 3.3.1 refers to new and existing residential areas and states the following:

“In relation to sessional/after-school care, the provision of such facilities may be considered in any residential area as ancillary to the main residential use subject to the criteria outlined in the relevant indents under Development Control above (at 3.2).”

- 5.3. That criteria in Section 3.2 is listed as follows:

- *Have regard to the Child Care (Pre-School Services) Regulations, 1996, in relation to the planning implications of these Regulations.*
- *Suitability of the site for the type and size of facility proposed.*
- *Availability of outdoor play area and details of management of same.*

- *Convenient to public transport nodes.*
- *Safe access and convenient parking for customers and staff.*
- *Local traffic conditions.*
- *Number of such facilities in the area.*
- *Intended hours of operation (in certain residential areas, 24 hour operations could be problematic)."*

5.3.1. For clarity, I consider planning implications of the Child Care (Pre-School Services) Regulations, 1996, relate to matters such as safe and effective drainage and sewage disposal and external fencing and storage.

5.3.2. Section 3.4.1 states:

"In certain circumstances, it may be appropriate to attach a condition that would require some residential content be maintained in the premises. This would apply to planning permissions for change of use to childcare facilities in existing residential areas. It is not necessary that the owner-occupier be the resident. The reason for this condition is that the presence of totally commercial premises would detract from the amenity of the residential community. This condition would not be appropriate in certain, heavily trafficked through roads."

5.4. Natural Heritage Designations

The closest site designated for natural heritage comprises Poulmagordon Cave SAC and pNHA which is situated 400m southeast of the site.

5.5. EIA Screening

5.5.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

- The Applicant has demonstrated that the site is capable of catering for the additional childcare spaces based on synergies with the adjacent primary school and does not seriously injure the amenities of residential properties in the area.
- The facility is well run and is a 'model creche' which strengthens the rural fabric by providing a childcare service adjacent a school, minimising traffic journeys which is sustainable and an efficient use of existing infrastructure. There is no evidence provided that traffic volumes attributable to the site create a traffic hazard.
- Innovative traffic mitigation measures have been provided including requiring all staff to utilise public car parking in Quin village centre, off the site.
- Traffic is an obstacle which can always be overcome and Clare County Council could request a levy in lieu of the shortfall of parking spaces.
- The first floor is retained in residential use. It is currently unoccupied but it is the intention to make use of that dwelling space in the near future.
- The proposed ground floor use as an additional creche represents a 3% increase in spaces between the combined childcare and adjacent school.
- Lack of alternatives – there is no other land zoned for creche use in the vicinity and this facility addresses childcare shortages and provides a crucial role helping families and creating a vibrant community. Refusing permission would directly and negatively impact families.
- The benefits of retaining the development is in the best interests of the community, aligns with planning objectives and represents sound planning practice. The benefits far outweigh any potential concerns.

6.2. Planning Authority Response

- *This is the second application on the proposal site, with the previous proposal to retain childcare users and an outdoor structure on the site refused by both Clare County Council and An Bord Pleanála (refs: P22/328 and ABP-314005-22). The*

Planning Authority does not consider that there has been any material change in the development proposal from that which was previously refused permission.

- *The grounds for appeal are noted and the Planning Authority considers that the issues raised therein have been fully addressed in the Planner's Report associated with the application.*

6.3. Observations

6.3.1. One observation was received from the Gallagher family and reflects the matters raised in a submission from the same party as outlined in point 3.4.2 of this report. In summary, those concerns relate to:

- The unauthorised intensification of commercial use on the site and lack of primary residential use leads to non-compliance with the zoning objective,
- The erection of unauthorised structures,
- The breach of planning conditions,
- The negative impact on residential amenity including noise, traffic congestion and lack of privacy leads to non-compliance with the zoning objective.
- Request to dismiss the appeal under Section 138 of the Planning and Development Act (as amended) as the application is materially identical to the previous refusal and is put forward only to delay enforcement proceedings and no material changes have been made to warrant reconsideration.

6.4. Further Responses

- The Planning Authority responded by outlining how they consider the issues have been addressed in the Planners report as well as their previous response to the appeal.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant

local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of ground floor change of use
- Impacts to Residential Amenity
- Covered play area
- Other Matters

7.2. Principle

7.2.1. The site is zoned 'existing residential' which has an objective primarily to protect existing residential amenities but also allows for *'for small scale infill development which is appropriate to the character and pattern of development in the immediate area and for uses that enhance existing residential communities'*. It further states that *'Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained'*. I note the land use zoning matrix states that creche/childcare facilities are acceptable in principle in existing residential areas but that home-based economic development is open for consideration.

7.2.2. The proposed development is not a home-based economic development as the Applicants do not reside on the site. This is clarified in a planning statement received with the application which states:

".... with professional creches, it is difficult to combine a home use. The home use is still there on the first floor which could be used as a locum accommodation for staff. In the current situation, the applicant has no requirement for such accommodation use and therefore the first floor is maintained vacant."

7.2.3. The appeal later went on to state:

"The first-floor section of the house is currently not occupied, however, it is the intention to make use of that dwelling space in the near future".

- 7.2.4. No information has been provided to demonstrate the feasibility of a first-floor residential unit such as layout drawings illustrating private open space, bin storage, kitchen facilities, own door access etc.
- 7.2.5. In this regard, the only remaining aspect of the zoning objective which the development may be assessed against is a 'small scale infill development' however changing the use of an existing dwelling does not, in my opinion, constitute infill development. The purpose built creche building on the site is a demonstration of infill development. Further, when the dwelling is considered in tandem with that purpose-built creche, I consider the combined childcare facility does not comprise a small development.
- 7.2.6. The permitted development for 20no. childcare spaces could be classified as small however the incremental intensification of the site over the intervening years which has now resulted in up to 81 children attending the site at any one time means the development is no longer, in my view, a small development.
- 7.2.7. The Case Planner made the point that condition no. 3 of ref. P04/626 was imposed in order to regulate impacts to residential amenity at that point in time. The significant increase in childcare spaces provided since that time and the associated impacts have not been addressed by the Applicant and have impacted adjoining residential amenity according to the third-party observation.
- 7.2.8. If the board disagrees and considers the development to be small, I highlight that the zoning objective requires any such developments to be *appropriate to the character and pattern of development in the immediate area and for uses that enhance existing residential communities*. It is unquestionable in my view that a childcare facility enhances existing residential communities as it does provide a valuable service with acknowledged shortages nationwide. However, the topics of impacts to residential amenity and traffic were raised in the previous refusal of retention permission and are not, in my opinion, addressed in this application as outlined later in this report.
- 7.2.9. Section A1.4.3 of the CDP provides development management guidance for childcare facilities and states:

"The use of terraced properties or semi-detached properties on small plots is less likely to be acceptable for full day care facilities and will be assessed on their merits with regard to the objectives and development management

guidelines outlined in this Plan. Sessional or afterschool care which is ancillary to the main residential use, may be more appropriate in this regard.”

- 7.2.10. I note in this regard that the existing childcare use on the ground floor of the dwelling is stated to comprise one sessional Montessori class and one each of a pre and afterschool class for school going children and in this regard the development complies with that element of the guidelines. However this use is not ancillary to a main residential use as, in my view, there is no main residential use on the site. The main use of the overall site, when the ground floor of the dwelling is utilised for childcare, is a commercial childcare facility.
- 7.2.11. The Childcare Guidelines are clear in that they consider *‘the presence of totally commercial premises would detract from the amenity of the residential community’* in circumstances where a change of use is proposed. While this application seeks to retain the first floor use for residential purposes, and thereby does not propose to provide an entirely commercial use on the site, I have concerns regarding the likelihood of the applicant implementing any residential use having regard to the statements outlined earlier on the matter.
- 7.2.12. To conclude on the matter of principle, in my opinion, having regard to the scale and intensification of childcare uses versus the scale of remaining residential uses on the site, the development does not comply with the zoning objective or with the Childcare Guidelines.
- 7.2.13. I note the zoning matrix permits childcare facilities on existing residential lands in principle, however in my view this would comprise a ‘small scale infill development’ type as discussed previously which the Applicant has already availed of by constructing the detached creche building. I do not consider that changing the use of the ground floor of the dwelling from residential to childcare uses would comply with this objective.

7.3. Residential Amenity

Traffic

- 7.3.1. One reason for refusal related to traffic concerns and the ‘significant deficiency in the provision of car parking’. The Applicant has outlined synergies resulting from the

location of the site adjacent to the primary school which I agree has benefits, allowing families to reduce the overall number of journeys. It is evident from the third party submissions however that many of the parents travel extended distances to utilise the creche and in this context I have concerns about the number of trips made overall to the site and how much synergy is actually created from families utilising the one site to care for multiple siblings etc.

- 7.3.2. The ground floor of the dwelling is utilised for pre-and after school care for school aged children with one sessional Montessori class in between those sessions. In this context, the majority of the additional traffic generated by the development likely relates to the Montessori session as any other children dropped off or collected from the site would otherwise be dropped off/collected from the school albeit at the schools opening and closing hours.
- 7.3.3. With regard to the 22no. sessional Montessori places, the application documents state that 11no. of these are already accounted for in the creche however it is not clear if they have the benefit of planning permission. Ref. P04/626 which is the parent permission for the stand alone creche provided for 20no. childcare spaces at the site while the application documents state that building now accommodates between 42 and 45no. childcare spaces.
- 7.3.4. Ref. P04/626 required the provision of 8no. parking spaces on the site however only 3no. are in place. The Applicant states that staff utilise public parking spaces in the village of Quin and I have concerns regarding the full time occupation of such spaces which are designed for short term use with a regular turnover to support all local businesses and residents in the village of Quin.
- 7.3.5. No report was present on the file from the Local Authority's Transport Department or Municipal District Office however the Case Planners report outlines the extent of existing public car parking in the village and states that while there may be some capacity available, an assessment is required to determine the impact of occupying such spaces on a full time and permanent basis.
- 7.3.6. I agree with the Case Planner that the information presented in the application is vague on details and meaningful engagement with traffic management matters such as drop off and collection times for each session and for the creche, the number of full time and part time staff and the modal split of drop offs/collections is required.

- 7.3.7. Very little evidence is provided of sustainable commuting such as walking and cycling trips. No evidence of cycle parking is provided within the site.
- 7.3.8. I inspected the site at 9.20am on a weekday morning during school term and noted a number of vehicles within the site as well as parking on the footpath outside blocking access for other vulnerable road users. I acknowledge that similar patterns of traffic generation and car parking arise from the adjacent school, all of which are short term and temporary, however the fact remains that this is a private and commercial enterprise which does not benefit from planning permission.
- 7.3.9. I consider that the lack of traffic management details presented within the application means it is not possible to fully quantify the impact of traffic from the development. Based on what I noted on the site with cars parked on footpaths during a non-peak time, I consider it likely there is a more significant impact during peak drop off and collection times e.g. at 8am and 5pm when the entire facility opens and closes. In my opinion insufficient detail has been presented to demonstrate how this traffic is managed and therefore the reason for refusal is still relevant.

Noise

- 7.3.10. The noise generated from the use of the outdoor play area by an additional 22no. children has not been addressed by the Applicant. Similarly, noise from the school aged children present on the site before and after school times has not been addressed. No meaningful engagement has been made to protect surrounding residential amenity such as the erection of suitable noise barriers, outlining the times of outdoor play sessions, installation of insulation or management of the internal floor area to minimise noise impacts to the adjacent dwelling.
- 7.3.11. Section 10.17.1 of the CDP states: *‘Whist the Council recognises the benefits of such facilities in residential areas this must be balanced with the protection of residential amenities and the retention of the residential character of the area’.*
- 7.3.12. I acknowledge the presence of the school adjacent to the site which creates a level of existing noise however the school’s operational hours are shorter than the creche. Additionally, the school is also not attached to a dwelling.

7.3.13. In my opinion, the significant increase in childcare spaces is likely to negatively impact on the residential amenity of the area due to noise impacts when regard is had to the otherwise residential character of the immediate area.

Visual Impact

7.3.14. Section 10.17.1 of the CDP supports childcare facilities co-locating near residential areas subject to retention of the residential character of the area. In my opinion, the cumulative effect of the:

- 3.28m high shed situated adjacent the property boundary and close to the rear elevation of the adjacent dwelling,
- the bright and multiple colour painted external finish of the dwelling and creche, and
- the signage for the creche

clearly identify the site as a commercial property which does not retain the residential character of the area, as evidenced by the lack of primary residential uses on the site.

7.3.15. In conclusion, I consider that the increase in childcare spaces on the site has not been meaningfully addressed in the application documents to mitigate impacts to residential amenity and the residential character of the area.

7.4. Covered Play Area

7.4.1. The application seeks permission to retain a 33.5m² steeltech type shed which is situated adjacent to the rear elevation and side boundary of the site. It is a pitched roof structure reaching 3.28m in height and is open at the eastern end effectively forming a covered outdoor play area in an arrangement not dissimilar to a car port. It is finished with metal sheeting abutting the boundary wall which is c.1.5m in height.

7.4.2. The shed is situated adjacent the property boundary with another residential property to the west and is accessed from the dwelling via a single storey conservatory on the rear elevation. Application documents state that it was erected during the covid-19 pandemic.

- 7.4.3. I consider the scale of the shed is commercial in nature and its location so close to the rear elevation of the adjoining property (c.3m separation) impacts the amenity of that dwelling. Alternative locations with less impact on adjoining residential amenity do not appear to have been considered for example to the east of the conservatory and therefore accessed from the back door of the dwelling.

7.5. Other Matters

- 7.5.1. A third party observation raised a number of enforcement and unauthorised development matters however this lies outside the scope of an appeal and is within the remit of the Local Authority.
- 7.5.2. I note the observer advised that the appeal should be dismissed under Section 138 of the Planning and Development Act as it considered the application to be identical to a previous refusal and was sought to delay enforcement proceedings. There is no evidence for this and I note the Planning Authority, who is the relevant authority for enforcement matters did not raise any objection to processing and validating the appeal.

8.0 AA Screening

- 8.1. I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located 400m northwest of Poulmagordon Cave Special Area of Conservation.
- 8.3. The proposed development comprises retention of a covered external play area and change of use of the ground floor of a dwelling to childcare use.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 8.6. The reason for this conclusion is as follows:
- Small scale and nature of the development

- Distance from nearest European site and lack of connections
- Taking into account screening report/determination by Clare County Council

8.7. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.8. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 **WFD**

9.1. The subject site is located 233m east of the Rine River.

9.2. The proposed development comprises retention of a covered external play area and change of use of the ground floor of a dwelling to childcare use.

9.3. No water deterioration concerns were raised in the planning appeal.

9.4. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

9.5. The reason for this conclusion is as follows:

- The small scale and nature of the development, and
- Its location and distance from nearest water bodies and lack of hydrological connections.

Conclusion

9.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a

temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

I recommend that retention permission is refused for the reasons set out below:

- 1. The site of the subject development is located in an area zoned “Existing Residential” in the Clare County Development Plan 2023-2029, for which the objective is to conserve and enhance the quality and character of the areas, to protect residential amenities. Furthermore, it is a policy of Clare County Development Plan 2023-2029 as set out in Section 10.17.1 which refers to Pre-School/Childcare Facilities to permit childcare facilities in existing residential areas provided that it is balanced with the protection of residential amenities and the retention of the character of the area. It is advised under section A1.4.3 of the Plan that sessional or after-school care which is ancillary to the main residential use is more appropriate in the context of semi-detached properties. Accordingly, having regard to the significantly increased scale and intensification of the childcare/Montessori centre over that which was permitted under permission granted under planning register reference number P04/626, and to the limited residential use on site, it is considered that the development proposed to be retained would seriously injure the amenities of residential property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the number of staff employed and the number of children facilitated on the site, and the significant deficiency in the provision of car parking, it is considered that the traffic volumes and movements associated with the proposed use of the ground floor of the existing dwelling as a childcare/Montessori centre in conjunction with the existing permitted childcare facility on site, together with the hours of operation of such a facility, would lead to unacceptable levels of traffic within this residential area, and would give rise to haphazard vehicular stopping and parking practices and turning movements thereby resulting in the*

obstruction of other road users, would endanger public safety by reason of traffic hazard, and would seriously injure the residential amenity of the occupants of nearby housing by reason of increased levels of traffic, noise, and general disturbance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Sarah O'Mahony
Planning Inspector

18th June 2025

Form 1 - EIA Pre-Screening

Case Reference	322107
Proposed Development Summary	Retain outdoor covered play area and retain change of use of ground floor from residential to childcare purposes.
Development Address	Newline Road, Quin, Co. Clare.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____